



Journal of the Senate

State of Indiana

114th General Assembly

Second Regular Session

Third Meeting Day

Tuesday Afternoon

January 10, 2006

The Senate convened at 1:51 p.m., with the President Pro Tempore of the Senate, Robert D. Garton, in the Chair.

The Senate Reader was directed to read the previously read section of the District Court's Order in *Hinrichs v. Bosma*, as set out in full in the Senate Journal of January 9, 2006.

Silent prayer followed the reading.

The Pledge of Allegiance to the Flag was led by the President Pro Tempore of the Senate.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Becker	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Craycraft	Mishler
Delph	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Simpson
Harrison	Sipes
Heinold	Skinner
Hershman	Smith <input type="checkbox"/>
Howard	Steele
Hume	Tallian
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax <input type="checkbox"/>
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 3: present 48; excused 2. [Note: A ☐ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

INTRODUCTION OF BILLS

The following bills and resolutions were read a first time by title and referred to the respective committees:

SB 311 — Dillon (Corrections, Criminal, and Civil Matters)
A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

SB 312 — Kenley (Rules and Legislative Procedure)
A BILL FOR AN ACT concerning the general assembly.

SB 313 — Hershman (Judiciary)
A BILL FOR AN ACT to amend the Indiana Code concerning local government.

SB 314 — Nugent (Agriculture and Small Business)
A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

SB 315 — Mrvan (Corrections, Criminal, and Civil Matters)
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

SB 316 — Mrvan (Tax and Fiscal Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

SB 317 — Mrvan (Judiciary)
A BILL FOR AN ACT to amend the Indiana Code concerning local government.

SB 318 — Mrvan (Governmental Affairs and Interstate Cooperation)
A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

SB 319 — Skinner (Education and Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education.

SB 320 — Skinner (Education and Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education.

SB 321 — Kruse (Pensions and Labor)
A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

SB 322 — Kruse (Pensions and Labor)
A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

SB 323 — Lubbers (Education and Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education.

SB 324 — Alting (Education and Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education.

SB 325 — Paul (Tax and Fiscal Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

SB 326 — Paul (Insurance and Financial Institutions)

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

SB 327 — Merritt (Appropriations)

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

SB 328 — Merritt (Governmental Affairs and Interstate Cooperation)

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

SB 329 — Broden (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

SB 330 — Broden (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

SB 331 — Broden (Governmental Affairs and Interstate Cooperation)

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

SB 332 — M. Young (Pensions and Labor)

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

SB 333 — Dillon (Homeland Security, Utilities, and Public Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

SB 334 — Waterman, M. Young (Governmental Affairs and Interstate Cooperation)

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

SB 335 — Landske, Craycraft (Homeland Security, Utilities, and Public Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning health.

SB 336 — Landske (Health and Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning education.

SB 337 — Landske (Governmental Affairs and Interstate Cooperation)

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

SB 338 — Merritt (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

SB 339 — Merritt (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

SB 340 — Wyss, Long (Pensions and Labor)

A BILL FOR AN ACT to amend the Indiana Code concerning

state offices and administration.

SB 341 — Wyss, Broden (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

SB 342 — Riegsecker (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

SB 343 — Bowser (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

SB 344 — Bowser (Elections and Civic Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

SB 345 — Meeks (Appropriations)

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

SB 346 — Meeks (Appropriations)

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

SB 347 — Meeks (Commerce & Transportation)

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

SB 348 — Waltz (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

SB 349 — Waltz (Insurance and Financial Institutions)

A BILL FOR AN ACT to amend the Indiana Code concerning insurance and to make an appropriation.

SB 350 — Dillon (Education and Career Development)

A BILL FOR AN ACT to amend the Indiana Code concerning education.

SB 351 — Lanane (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

SB 352 — Lanane (Appropriations)

A BILL FOR AN ACT concerning utilities and transportation and to make an appropriation.

SB 353 — Weatherwax, Hershman, Gard, Jackman, Waterman, Drozda, R. Young, Hume (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

SB 354 — Weatherwax (Natural Resources)

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

SB 355 — Lawson (Governmental Affairs and Interstate Cooperation)

A BILL FOR AN ACT to amend the Indiana Code concerning

taxation.

SB 356 — Steele (Insurance and Financial Institutions)

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

SB 357 — Howard (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

SB 358 — Meeks (Commerce & Transportation)

A BILL FOR AN ACT to amend the Indiana Code concerning education.

SB 359 — Hershman (Governmental Affairs and Interstate Cooperation)

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

SB 360 — Ford (Governmental Affairs and Interstate Cooperation)

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 102, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 73, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 30, before "utility" insert "**regulated public**".

Page 2, line 30, after "utility" insert ", **including an energy utility**".

Page 2, line 30, delete "IC 8-1-1.1-1)" and insert "**IC 8-1-2.5-2) or an affiliate of an energy utility**".

Page 2, line 31, delete "product or" and insert "**utility product,**".

Page 2, line 31, delete "service" and insert "**service, or business operation. For purposes of this subdivision, a contract relates to a utility product, service, or business operation if it involves an activity necessary for or ancillary to the production or delivery of heat, power and light, or a product or service**".

Page 2, line 32, after "commission" insert "**(as described by IC 8-1-1)**".

(Reference is to SB 73 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 47, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 5, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 16, after "it" insert ":

(1)".

Page 1, line 17, delete "(1) a cemetery (as defined in IC 23-14-33-7) during", begin a new line double block indented, and insert:

"(A) the location where".

Page 2, line 1, delete "burial;" and insert "**burial is being performed;**".

Page 2, line 2, delete "(2)", begin a new line double block indented and insert:

"(B)".

Page 2, line 3, delete "(3)", begin a new line double block indented and insert:

"(C)".

Page 2, line 5, delete "(4)", begin a new line double block indented and insert:

"(D)".

Page 2, line 6, delete "." and insert "**; and**

(2) adversely affects the funeral, burial, viewing, funeral procession, or memorial service."

(Reference is to SB 5 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill 259, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 9, Nays 1.

KENLEY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Concurrent Resolution 7, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said resolution do pass.

Committee Vote: Yeas 11, Nays 0.

LONG, Chair

Report adopted.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 8 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker has appointed Representatives Hoffman, Whetstone, Klinker, and Kromkowski to wait upon and escort the Governor to convene a joint convention of the Senate and House for the purpose of receiving the Governor's State of the State message on January 11, 2006.

M. CAROLINE SPOTTS
Principal Clerk of the House

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 13

House Concurrent Resolution 13, sponsored by Senator Drozda:

A CONCURRENT RESOLUTION honoring Zionsville Community High School.

Whereas, The Midwestern Regional Office of the College Board recognized Zionsville Community High School as the number one Indiana school based on students' success in college level advanced placement classes for schools with at least 250 in their senior class;

Whereas, This ranking is based on data relating to students' access to and success in advanced placement classes;

Whereas, Advanced placement classes offer high school students the opportunity to earn credit or advanced standing at most colleges and universities;

Whereas, Advanced placement classes help students gain the edge in college preparation, stand out in the college admissions process, and broaden their intellectual horizons;

Whereas, Zionsville Community High School offered 18 advanced placement classes during the 2005-2006 school year;

Whereas, The number of advanced placement classes at Zionsville

Community High School will be raised to 22 during school year 2006-2007; and

Whereas, Through their excellent showing in the advanced placement classes, the students at Zionsville Community High School have demonstrated a strong desire to learn and a willingness to work hard: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That the Indiana General Assembly commends Zionsville Community High School for its diligence and dedication to excellence and encourages the school's students to continue to strive for excellence throughout their lives.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to James Eggers, Principal of Zionsville Community High School, and Dr. Howard J. Hull, Superintendent of the Zionsville Community School Corporation.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 12, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Criminal justice" includes activities concerning:

- (1) the prevention or reduction of criminal offenses;
- (2) the enforcement of criminal law;
- (3) the apprehension, prosecution, and defense of persons accused of crimes;
- (4) the disposition of convicted persons, including corrections, rehabilitation, probation, and parole; and
- (5) the participation of members of the community in corrections.

"Entitlement jurisdictions" include the state and certain local governmental units as defined in Section 402(a) of the Omnibus Act.

"Institute" means the Indiana criminal justice institute.

"Juvenile justice" includes activities concerning:

- (1) the prevention or reduction of juvenile delinquency;
- (2) the apprehension and adjudication of juvenile offenders;
- (3) the disposition of juvenile offenders including protective

- techniques and practices;
- (4) the prevention of child abuse and neglect; and
- (5) the discovery, protection, and disposition of children in need of services.

"Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 and any amendments made to that act.

"Local governmental entities" include:

- (1) trial courts; and
- (2) political subdivisions (as defined in IC 36-1-2-13).

~~"Offender" has the meaning set forth in IC 5-2-12-4.~~

"Omnibus Act" means the Omnibus Crime Control and Safe Streets Act of 1968 and any amendments made to that act.

"Trustees" refers to the board of trustees of the institute.

SECTION 2. IC 5-2-6-3, AS AMENDED BY P.L.192-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The institute is established to do the following:

- (1) Evaluate state and local programs associated with:
 - (A) the prevention, detection, and solution of criminal offenses;
 - (B) law enforcement; and
 - (C) the administration of criminal and juvenile justice.
- (2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
- (3) Stimulate criminal and juvenile justice research.
- (4) Develop new methods for the prevention and reduction of crime.
- (5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
- (6) Administer victim and witness assistance funds.
- (7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
- (8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
- (9) Serve as the criminal justice statistical analysis center for this state.
- ~~(10) Establish and maintain, in cooperation with the office of the secretary of family and social services, a sex and violent offender directory.~~
- (10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.**
- (11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.
- ~~(12) Prescribe or approve forms as required under IC 5-2-12.~~
- ~~(13) Provide judges, law enforcement officers, prosecuting attorneys, parole officers, and probation officers with information and training concerning the requirements in IC 5-2-12 and the use of the sex and violent offender directory.~~
- ~~(14)~~ **(12)** Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 3. IC 5-2-6-14, AS AMENDED BY P.L.64-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund.

Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

- (1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;
- (2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or
- (3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

- (1) pay the costs of administering the fund, including expenditures for personnel and data;
- (2) ~~establish and maintain support~~ the **Indiana sex and violent offender directory registry** under ~~IC 5-2-12~~; **IC 11-8-8**;
- (3) provide training for persons to assist victims; and
- (4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 4. IC 10-13-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

- (1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.
- (2) Information regarding a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-4**) obtained through sex ~~and violent~~ offender registration under ~~IC 5-2-12~~; **IC 11-8-8**.
- (3) Any disposition, including sentencing, and correctional system intake, transfer, and release.

SECTION 5. IC 10-13-3-27, AS AMENDED BY P.L.234-2005 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement ~~agencies~~ **agency** shall release ~~or allow inspection of~~ a limited criminal history to ~~or allow inspection of a limited criminal history by~~ noncriminal justice organizations or individuals only if the subject of the request:

- (1) has applied for employment with a noncriminal justice organization or individual;
- (2) has applied for a license and **has provided** criminal history data as required by law to be provided in connection with the license;
- (3) is a candidate for public office or a public official;
- (4) is in the process of being apprehended by a law enforcement

agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) is currently residing in a location designated by the department of child services (established by IC 31-33-1.5-2) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;

(10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;

(11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of family and children;

(12) is being sought by the parent locator service of the child support bureau of the division of family and children;

(13) is or was required to register as a sex ~~and violent~~ offender under ~~IC 5-2-12, IC 11-8-8~~; or

(14) has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 6. IC 10-13-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, if the agency has complied with the reporting requirements in section 24 of this chapter, and the department shall do the following:

(1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.

(2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.

(3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:

(1) has been requested; and

(2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the **Indiana sex and violent offender directory registry** under ~~IC 5-2-6 IC 11-8-8~~ or concerns a person required to register as a sex ~~and violent~~ offender under ~~IC 5-2-12, IC 11-8-8~~.

SECTION 7. IC 10-13-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. As used in this chapter, "juvenile history data" means information collected by criminal or juvenile justice agencies or individuals about a child who is alleged to have committed a reportable act and consists of the following:

(1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.

(2) A petition alleging that the child is a delinquent child.

(3) Dispositional decrees concerning the child that are entered under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).

(4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or IC 31-6-4-19(i) before their repeal) concerning the child.

(5) Information:

(A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in ~~IC 5-2-12-4 11-8-8-4~~ if committed by an adult; and

(B) that is obtained through sex ~~and violent~~ offender registration under ~~IC 5-2-12, IC 11-8-8~~.

SECTION 8. IC 11-8-2-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. **The department shall do the following:**

(1) Maintain the Indiana sex offender registry established under IC 36-2-13-5.5.

(2) Prescribe and approve a format for sex offender registration as required by IC 11-8-8.

(3) Provide:

(A) judges;

- (B) law enforcement officials;
- (C) prosecuting attorneys;
- (D) parole officers;
- (E) probation officers; and
- (F) community corrections officials;

with information and training concerning the requirements of IC 11-8-8 and the use of the Indiana sex offender registry.

(4) Upon request of a neighborhood association:

- (A) transmit to the neighborhood association information concerning sex offenders who reside near the location of the neighborhood association; or
- (B) provide instructional material concerning the use of the Indiana sex offender registry to the neighborhood association.

SECTION 9. IC 11-8-2-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13. (a) The Indiana sex offender registry established under IC 36-2-13-5.5 and maintained by the department under section 12 of this chapter must include the names of each offender who is or has been required to register under IC 11-8-8.**

(b) The department shall do the following:

- (1) Ensure that the Indiana sex offender registry is updated at least once per day with information provided by a local law enforcement authority (as defined in IC 11-8-8-2).
- (2) Publish the Indiana sex offender registry on the Internet through the computer gateway administered by the office of technology established by IC 4-13.1-2-1, and ensure that the Indiana sex offender registry displays the following or similar words:

"Based on information submitted to law enforcement, a person whose name appears in this registry has been convicted of a sex offense or has been adjudicated a delinquent child for an act that would be a sex offense if committed by an adult."

SECTION 10. IC 11-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2. (a) The department may, under IC 4-22-2, classify as confidential the following personal information maintained on a person who has been committed to the department or who has received correctional services from the department:**

- (1) Medical, psychiatric, or psychological data or opinion which might adversely affect that person's emotional well-being.
- (2) Information relating to a pending investigation of alleged criminal activity or other misconduct.
- (3) Information which, if disclosed, might result in physical harm to that person or other persons.
- (4) Sources of information obtained only upon a promise of confidentiality.
- (5) Information required by law or promulgated rule to be maintained as confidential.

(b) The department may deny the person about whom the information pertains and other persons access to information classified as confidential under subsection (a). However, confidential information shall be disclosed:

- (1) upon the order of a court;
- (2) to employees of the department who need the information in the performance of their lawful duties;

- (3) to other agencies in accord with IC 4-1-6-2(m) and IC 4-1-6-8.5;
- (4) to the governor or the governor's designee;
- (5) for research purposes in accord with IC 4-1-6-8.6(b);
- (6) to the department of correction ombudsman bureau in accord with IC 11-11-1.5; or
- (7) if the commissioner determines there exists a compelling public interest as defined in IC 4-1-6-1, for disclosure which overrides the interest to be served by nondisclosure.

(c) The department shall disclose information classified as confidential under subsection (a)(1) to a physician, psychiatrist, or psychologist designated in writing by the person about whom the information pertains.

(d) The department may disclose confidential information to the following:

- (1) A provider of sex offender management, treatment, or programming.
- (2) A provider of mental health services.
- (3) Any other service provider working with the department to assist in the successful return of an offender to the community following the offender's release from incarceration.

SECTION 11. IC 11-8-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 8. Sex Offender Registration

Sec. 1. As used in this chapter, "correctional facility" has the meaning set forth in IC 4-13.5-1-1.

Sec. 2. As used in this chapter, "local law enforcement authority" means the:

- (1) chief of police of a consolidated city; or
- (2) sheriff of a county that does not contain a consolidated city.

Sec. 3. As used in this chapter, "register" means to provide a local law enforcement authority with the information required under IC 11-8-8-7.

Sec. 4. (a) As used in this chapter, "sex offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.
- (13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).
- (14) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (13).

(15) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (14).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

Sec. 5. As used in this chapter, "sexually violent predator" means a sex offender convicted of a sex offense:

(1) in Indiana who has been determined to be a sexually violent predator under IC 35-38-1-7.5; or

(2) in another jurisdiction who has been found by a court in that jurisdiction to suffer from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in any of the offenses described in section 4 of this chapter.

Sec. 6. (a) Subject to section 14 of this chapter, the following persons must register under this chapter:

(1) A sex offender who resides in Indiana. A sex offender resides in Indiana if either of the following applies:

(A) The sex offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex offender not described in subdivision (1) who works or carries on a vocation or intends to work or carry on a vocation full time or part time for a period:

(A) exceeding fourteen (14) consecutive days; or

(B) for a total period exceeding thirty (30) days; during any calendar year in Indiana, whether the sex offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex offender not described in subdivision (1) who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), a sex offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex offender resides. If a sex offender resides in more than one (1) county, the sex offender shall register with the local law enforcement authority of each county in which the sex offender resides.

(c) A sex offender described in subsection (a)(2) shall register with the local law enforcement authority of the county where the sex offender is or intends to be employed or carry on a vocation.

If a sex offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex offender shall register with the local law enforcement authority of each county.

(d) A sex offender described in subsection (a)(3) shall register with the local law enforcement authority of the county where the sex offender is enrolled or intends to be enrolled as a student.

(e) A sex offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located.

(f) A sex offender committed to the department shall register with the department before the sex offender is released from incarceration. The department shall forward the sex offender's registration information to the local law enforcement authority of every county in which the sex offender is required to register.

(g) A sex offender not committed to the department shall register not more than seven (7) days after the sex offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the sex offender is required to register under subsection (b), (c), or (d);

whichever occurs first.

(h) Whenever a sex offender registers with a local law enforcement authority, the local law enforcement authority shall immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5.

(i) The local law enforcement authority with whom a sex offender registers under this section shall make and publish a photograph of the sex offender on the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The sheriff of a county containing a consolidated city shall provide the police chief of a consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex offender registry web site established under IC 36-2-13-5.5.

(j) When a sex offender registers, the local law enforcement authority shall:

(1) immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5; and

(2) notify every law enforcement agency having jurisdiction in the county where the sex offender resides.

The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex offender during registration.

Sec. 7. The registration required under this chapter must include the following information:

- (1) The sex offender's full name, alias, any name by which the sex offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, Social Security number, driver's license number, and home address.
- (2) A description of the offense for which the sex offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.
- (3) If the person is required to register under section 6(a)(2) or 6(a)(3) of this chapter, the name and address of each of the sex offender's employers in Indiana, the name and address of each campus or location where the sex offender is enrolled in school in Indiana, and the address where the sex offender stays or intends to stay while in Indiana.
- (4) A recent photograph of the sex offender.
- (5) If the sex offender is a sexually violent predator, that the sex offender is a sexually violent predator.
- (6) Any other information required by the department.

Sec. 8. (a) Not more than seven (7) days before an Indiana sex offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

- (1) Orally inform the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender was orally informed or, if the sex offender refuses to sign the statement, certify that the sex offender was orally informed of the duty to register.
- (2) Deliver a form advising the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender received the written notice or, if the sex offender refuses to sign the statement, certify that the sex offender was given the written notice of the duty to register.
- (3) Obtain the address where the sex offender expects to reside after the sex offender's release.
- (4) Transmit to the local law enforcement authority in the county where the sex offender expects to reside of the sex offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex offender.

(b) Not more than three (3) days after a sex offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

- (1) The sex offender's fingerprints, photograph, and identification factors.
- (2) The address where the sex offender expects to reside after the sex offender's release.
- (3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex offender.
- (4) Information regarding the sex offender's past treatment for mental disorders.

(5) Information as to whether the sex offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex offender is placed on probation or in a community corrections program without confining the sex offender in a penal facility. The probation office serving the court in which the sex offender is sentenced shall perform the duties required under subsections (a) and (b).

Sec. 9. Notwithstanding any other law, upon receiving a sex offender's fingerprints from a correctional facility, the state police shall immediately send the fingerprints to the Federal Bureau of Investigation.

Sec. 10. (a) If a sex offender who is required to register under this chapter changes:

- (1) home address; or
- (2) if section 6(a)(2) or 6(a)(3) of this chapter applies, the place where the sex offender stays in Indiana;

the sex offender shall register not more than seventy two (72) hours after the address change with the local law enforcement authority with whom the sex offender last registered.

(b) If the sex offender moves to a new county in Indiana, the local law enforcement authority referred to in subsection (a) shall inform the local law enforcement authority in the new county in Indiana of the sex offender's residence and forward all relevant registration information concerning the sex offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex offender under section 11 of this chapter within seven (7) days after receiving the notice.

(c) If a sex offender who is required to register under section 6(a)(2) or 6(a)(3) of this chapter changes the sex offender's principal place of employment, principal place of vocation, or campus or location where the sex offender is enrolled in school, the sex offender shall register not more than seventy two (72) hours after the change with the local law enforcement authority with whom the sex offender last registered.

(d) If a sex offender moves the sex offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority referred to in subsection (c) shall inform the local law enforcement authority in the new county of the sex offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex offender moves the sex offender's residence, place of employment, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex offender's new place of residence, employment, or enrollment.

(f) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex offender.

(g) A local law enforcement authority who is notified of a change under subsection (a) or (c) shall immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5.

Sec. 11. (a) To verify a sex offender's current residence, the local law enforcement authority shall do the following:

(1) Mail a reply form to each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 14 of this chapter or the date the sex offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;
- (D) placed on parole; or
- (E) placed on probation;

whichever occurs first.

(2) Mail a reply form to each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 15 of this chapter or the date the sex offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;
- (D) placed on parole; or
- (E) placed on probation;

whichever occurs first.

(b) If a sex offender fails to return a signed reply form either by mail or in person, the local law enforcement authority shall immediately notify the department and the prosecuting attorney.

Sec. 12. (a) A sex offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex offender who is required to register under this chapter changes the sex offender's name due to marriage, the sex offender must register with the local law enforcement authority not more than seven (7) days after the name change.

Sec. 13. A sex offender who knowingly or intentionally fails to register:

- (1) when required to register under this chapter; or
- (2) in every location where the sex offender is required to register under this chapter;

commits a Class D felony. However, the offense is a Class C felony if the sex offender has a prior unrelated offense under this section.

Sec. 14. (a) Except as provided in subsections (b) and (c), a sex offender is required to register under this chapter until the expiration of ten (10) years after the date the sex offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;
- (2) is placed in a community transition program;
- (3) is placed in a community corrections program;
- (4) is placed on parole; or
- (5) is placed on probation;

whichever occurs last. The department shall ensure that an offender who is no longer required to register as a sex offender is notified that the obligation to register has expired.

(b) A sex offender who is found to be a sexually violent

predator by a court under IC 35-38-1-7.5(b) is required to register for life.

(c) A sex offender who is convicted of at least one (1) sex offense that the sex offender committed:

- (1) when the person was at least eighteen (18) years of age; and
- (2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) A sex offender who is convicted of at least one (1) sex offense in which the sex offender:

- (1) proximately caused serious bodily injury or death to the victim;
- (2) used force or the threat of force against the victim or a member of the victim's family; or
- (3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) A sex offender who is convicted of at least two (2) unrelated sex offenses is required to register for life.

Sec. 15. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of a sex offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.

(c) If the state agency receives information that a sex offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, the state agency shall inform in writing the local law enforcement authority where the sex offender is required to register in Indiana of:

- (1) the sex offender's name, date of relocation, and new address; and
- (2) the sex offense or delinquent act committed by the sex offender.

(d) The state agency shall determine, following a hearing:

- (1) whether a person convicted of an offense in another jurisdiction is required to register as a sex offender in Indiana;
- (2) whether an out of state sex offender is a sexually violent predator; and
- (3) the period in which an out of state sex offender who has moved to Indiana will be required to register as a sex offender in Indiana.

SECTION 12. IC 11-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
 - (A) the residence of the parolee prior to the parolee's incarceration; and
 - (B) the parolee's place of employment; and
- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
- (2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

- (1) may require a parolee who is a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-4**) to:
 - (A) participate in a treatment program for sex offenders approved by the parole board; and
 - (B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:
 - (i) receives the parole board's approval; or
 - (ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

- (A) require a parolee who is ~~an~~ a sex offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-4**) to register with a ~~sheriff (or the police chief of a consolidated city) under IC 5-2-12-5; local law enforcement authority under IC 11-8-8;~~
- (B) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board; and
- (C) prohibit a parolee who is ~~an~~ a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5.

If the parole board allows the sex offender to reside within one

thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is ~~an~~ a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

SECTION 13. IC 11-13-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) This section shall not be construed to limit victim's ~~victim's~~ rights granted by IC 35-40 or any other law.

(b) As used in this section, "sex offense" refers to a sex offense described in ~~IC 5-2-12-4(1); IC 11-8-8-4.~~

(c) As used in this section, "victim" means a person who has suffered direct harm as a result of a delinquent act that would be a sex offense if the delinquent offender were an adult. The term includes a victim's representative appointed under IC 35-40-13.

(d) Unless a victim has requested in writing not to be notified, the department shall notify the victim involved in the adjudication of a delinquent offender committed to the department for a sex offense of the delinquent offender's:

- (1) discharge from the department of correction;
- (2) release from the department of correction under any temporary release program administered by the department;
- (3) release on parole;
- (4) parole release hearing under this chapter;
- (5) parole violation hearing under this chapter; or
- (6) escape from commitment to the department of correction.

(e) The department shall make the notification required under subsection (d):

- (1) at least forty (40) days before a discharge, release, or hearing occurs; and
- (2) not later than twenty-four (24) hours after the escape of a delinquent offender from commitment to the department of correction.

The department shall supply the information to a victim at the address supplied to the department by the victim. A victim is responsible for supplying the department with any change of address or telephone number of the victim.

(f) The probation officer or caseworker preparing the predispositional report under IC 31-37-17 shall inform the victim before the predispositional report is prepared of the right of the victim to receive notification from the department under subsection (d). The probation department or county office of family and children shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department. The probation department or county office of family and children shall supply the department with the information required by this section as soon as possible but not later than five (5) days after the receipt of the information. A victim is responsible for supplying the department with the correct address and telephone number of the victim.

(g) Notwithstanding IC 11-8-5-2 and IC 4-1-6, a delinquent offender may not have access to the name and address of a victim. Upon the filing of a motion by a person requesting or objecting to the release of victim information or representative information, or both, that is retained by the department, the court shall review in camera the information that is the subject of the motion before ruling on the

motion.

(h) The notice required under subsection (d) must specify whether the delinquent offender is being discharged, is being released under a temporary release program administered by the department, is being released on parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

- (1) The name of the delinquent offender.
- (2) The date of the delinquent act.
- (3) The date of the adjudication as a delinquent offender.
- (4) The delinquent act of which the delinquent offender was adjudicated.
- (5) The disposition imposed.
- (6) The amount of time for which the delinquent offender was committed to the department.
- (7) The date and location of the interview (if applicable).

SECTION 14. IC 31-19-11-1, AS AMENDED BY P.L.129-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

- (1) the adoption requested is in the best interest of the child;
- (2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;
- (3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;
- (4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;
- (5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;
- (6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:
 - (A) IC 31-19-6 indicating whether a record of a paternity determination; or
 - (B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

- (7) proper consent, if consent is necessary, to the adoption has been given;
- (8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and
- (9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the department's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court

may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery as a felony (IC 35-42-2-1).
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).
- (10) A felony sex offense under IC 35-42-4.
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
- (15) Child selling (IC 35-46-1-4(d)).
- (16) A felony involving a weapon under IC 35-47 or IC 35-47.5.
- (17) A felony relating to controlled substances under IC 35-48-4.
- (18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
- (19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~an~~ **a sex offender** (as defined in ~~IC 5-2-12-4~~; **IC 11-8-8-4**).

SECTION 15. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

- (1) Order supervision of the child by:
 - (A) the probation department; or
 - (B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile court shall after a determination under ~~IC 5-2-12-4~~ **IC 11-8-8-4** require a child who is adjudicated a delinquent child for an act that would be an offense described in ~~IC 5-2-12-4~~ **IC 11-8-8-4** if committed by an adult to register with the ~~sheriff (or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12-4~~ **IC 11-8-8**.

(2) Order the child to receive outpatient treatment:

- (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
- (B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may

challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 16. IC 31-37-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) After a juvenile court makes a determination under ~~IC 5-2-12-4~~, **IC 11-8-8-4**, the juvenile court may, in addition to an order under section 6 of this chapter, and if the child:

(1) is at least thirteen (13) years of age and less than sixteen (16) years of age; and

(2) committed an act that, if committed by an adult, would be:

(A) murder (IC 35-42-1-1);

(B) kidnapping (IC 35-42-3-2);

(C) rape (IC 35-42-4-1);

(D) criminal deviate conduct (IC 35-42-4-2); or

(E) robbery (IC 35-42-5-1) if the robbery was committed while armed with a deadly weapon or if the robbery resulted in bodily injury or serious bodily injury;

order wardship of the child to the department of correction for a fixed period that is not longer than the date the child becomes eighteen (18) years of age, subject to IC 11-10-2-10.

(c) Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section (or IC 31-6-4-15.9(b)(8) before its repeal).

SECTION 17. IC 35-38-1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.5. (a) As used in this section, "sexually violent predator" has the meaning set forth in ~~IC 5-2-12-4.5~~, **IC 11-8-8-5**.

(b) This section applies whenever a court sentences a person for a sex offense listed in ~~IC 5-2-12-4(a)(1) through IC 5-2-12-4(a)(10)~~ **IC 11-8-8-4** for which the person is required to register with the ~~sheriff (or the police chief of a consolidated city) local law enforcement authority~~ under ~~IC 5-2-12-5~~, **IC 11-8-8**.

(c) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator. Before making a determination under this section, the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders.

(d) If the court finds that a person is a sexually violent predator:

(1) the person is required to register with the ~~sheriff (or the police chief of a consolidated city) local law enforcement authority~~ as provided in ~~IC 5-2-12-13(b)~~, **IC 11-8-8**; and

(2) the court shall send notice of its finding under this subsection to the ~~criminal justice institute~~, **department of correction**.

(e) A person who is found by a court to be a sexually violent predator under subsection (c) may petition the court to consider whether the person is no longer a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after the sentencing court makes its finding under

subsection (c). A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person is no longer a sexually violent predator, the court shall send notice to the ~~Indiana criminal justice institute~~ **department of correction** that the person is no longer considered a sexually violent predator.

SECTION 18. IC 35-38-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.2. As a condition of probation for ~~an~~ **a sex offender** (as defined in ~~IC 5-2-12-4~~ **IC 11-8-8-4**), the court shall:

(1) require the **sex offender** to register with the ~~sheriff (or the police chief of a consolidated city) local law enforcement authority~~ under ~~IC 5-2-12-5~~, **IC 11-8-8-6**; and

(2) prohibit the **sex offender** from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the **sex offender** obtains written approval from the court.

If the court allows the **sex offender** to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the **sex offender's** residence of the order.

SECTION 19. IC 35-38-2-2.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.4. As a condition of probation, the court may require a sex offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-4**) to:

(1) participate in a treatment program for sex offenders approved by the court; and

(2) avoid contact with any person who is less than sixteen (16) years of age unless the probationer:

(A) receives the court's approval; or

(B) successfully completes the treatment program referred to in subdivision (1).

SECTION 20. IC 35-43-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person who:

(1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or

(2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

(A) a Class A misdemeanor if:

(i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);

(ii) the property damaged was a moving motor vehicle;

(iii) the property damaged ~~or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) contained data relating to a person required to register as a sex offender under IC 11-8-8~~ and the person is not a sex offender or was not required to register as a sex offender;

(iv) the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way;

(v) the property damaged was a part of any railroad signal system, train control system, centralized dispatching

system, or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company;

(vi) the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company; or

(vii) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

(i) the pecuniary loss is at least two thousand five hundred dollars (\$2,500);

(ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;

(iii) the damage is to a public record;

(iv) the property damaged ~~or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) contained data relating to a person required to register as a sex offender under IC 11-8-8~~ and the person is a sex offender or was required to register as a sex offender;

(v) the damage causes substantial interruption or impairment of work conducted in a scientific research facility;

(vi) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); or

(vii) the damage causes substantial interruption or impairment of work conducted in a food processing facility.

(b) A person who recklessly, knowingly, or intentionally damages:

(1) a structure used for religious worship;

(2) a school or community center;

(3) the grounds:

(A) adjacent to; and

(B) owned or rented in common with;

a structure or facility identified in subdivision (1) or (2); or

(4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

(1) the person has removed or painted over the graffiti or has made other suitable restitution; and

(2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is

satisfied with the removal, painting, or other restitution performed by the person.

SECTION 21. IC 35-50-2-2, AS AMENDED BY P.L.213-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

(R) an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death); or

(S) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of ~~an~~ a sex offender's (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-4**) sentence that is suspendible under subsection (b), the court shall place the sex offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 22. IC 35-50-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as provided in subsection (d), when a person imprisoned for a felony completes ~~his the person's~~ fixed term of imprisonment, less the credit time ~~he has~~ earned with respect to that term, ~~he the person~~ shall be:

- (1) released on parole for not more than twenty-four (24) months, as determined by the parole board;
- (2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or
- (3) released to the committing court if ~~his the~~ sentence included a period of probation.

(b) Except as provided in subsection (d), a person released on parole remains on parole from the date of ~~his~~ release until ~~his the~~ fixed term expires, unless ~~his the person's~~ parole is revoked or ~~he the~~

person is discharged from that term by the parole board. In any event, if ~~his the person's~~ parole is not revoked, the parole board shall discharge ~~him the person~~ after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for the remainder of ~~his the person's~~ fixed term. However, ~~he the person~~ shall again be released on parole when ~~he the person~~ completes that remainder, less the credit time ~~he the person~~ has earned since the revocation. The parole board may reinstate ~~him the person~~ on parole at any time after the revocation.

(d) When ~~an~~ a sex offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-4**) completes the offender's fixed term of imprisonment, less credit time earned with respect to that term, the offender shall be placed on parole for not more than ten (10) years.

SECTION 23. IC 35-50-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time he has earned for any of the following:

- (1) A violation of one (1) or more rules of the department of correction.
- (2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.
- (3) A violation of one (1) or more rules or conditions of a community transition program.
- (4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.
- (5) If the person is a sex offender (as defined in IC 11-8-8-4) and refuses to register before being released from the department as required under IC 11-8-8-6.**
- (6) If the person is a sex offender (as defined in IC 11-8-8-4) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction.**

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, he may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine his guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive his right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

SECTION 24. IC 36-2-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain a **Indiana** sex offender web site, known as the Indiana ~~sheriffs'~~ sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least ~~every seven (7) days~~ **daily**.

(b) The **Indiana** sex offender web site must include the following information:

- (1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.
- (2) The home address of every sex offender.
- (3) The information required to be included in the Indiana sex offender ~~directory registry (IC 5-2-12-6);~~ **under IC 11-8-8-7.**

(c) Every time a sex offender ~~submits a new registration form to the sheriff registers,~~ but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the **Indiana** sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

- (1) The photograph must be full face, front view, with a plain white or off-white background.
- (2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.
- (3) The photograph must be in color.
- (4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.
- (5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.
- (6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the **Indiana** sex offender web site.

(e) The **Indiana** sex offender web site may be funded from:

- (1) the jail commissary fund (IC 36-8-10-21);
- (2) a grant from the criminal justice institute; and
- (3) any other source, subject to the approval of the county fiscal body.

SECTION 25. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 5-2-6-3.5; IC 5-2-12.

SECTION 26. [EFFECTIVE JULY 1, 2006] **IC 11-8-8-13, as added by this act, and IC 35-43-1-2, as amended by this act, apply only to crimes committed after June 30, 2006.**

SECTION 27. An emergency is declared for this act.

(Reference is to SB 12 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal, and Civil Matters.

GARTON, Chair

Report adopted.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 8

House Concurrent Resolution 8, sponsored by Senators Garton and R. Young:

A CONCURRENT RESOLUTION to convene a Joint Session of

the 114th General Assembly of the State of Indiana.

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That a joint convention of the Senate and House of Representatives be convened, to meet in the Chambers of the House of Representatives at 7:00 p.m., on Wednesday, January 11th, 2006, to receive the Governor's message which will be given in compliance with Section 13 of Article 5 of the Constitution of the State of Indiana and the Speaker is hereby directed to appoint a committee of four members of this House to transmit this resolution to the Senate and report to this House such action as the Senate may take thereon.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

House Concurrent Resolution 10

House Concurrent Resolution 10, sponsored by Senator Garton:

A CONCURRENT RESOLUTION to convene a Joint Session of the 114th General Assembly of the State of Indiana.

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That a joint convention of the Senate and House of Representatives be convened, to meet in the Chambers of the House of Representatives at 1:30 p.m., on Thursday, January 12th, 2006, to receive the Chief Justice's message, which will be given in compliance with Section 3 of Article 7 of the Constitution of the State of Indiana and the Speaker is hereby directed to appoint a committee of four members of this House to transmit this resolution to the Senate and report to this House such action as the Senate may take thereof.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 27, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 7.1-3-1.5-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.2. As used in this chapter,**

"applicant" means a person who applies for a trainer certificate under this chapter to train:

- (1) alcohol servers; and**
- (2) individuals who plan to become certified trainers; on the selling, serving, and consumption of alcoholic beverages.**

SECTION 2. IC 7.1-3-1.5-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.3. As used in this chapter, "certified trainer" means a person who is issued a trainer certificate under section 4.6 of this chapter.**

SECTION 3. IC 7.1-3-1.5-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.2. As used in this chapter, "server certificate" means a certificate issued by the commission under this chapter to an individual who completes a program established or approved under section 6 of this chapter.**

SECTION 4. IC 7.1-3-1.5-4.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.4. As used in this chapter, "trainer certificate" means a certificate issued by the commission under this chapter to an applicant who meets the requirements under section 4.6 of this chapter.**

SECTION 5. IC 7.1-3-1.5-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.6. The commission shall issue a trainer certificate to an applicant who:**

- (1) files the application and pays the fees established by the commission under section 5 of this chapter;**
- (2) completes a program established or approved under section 6 of this chapter; and**
- (3) meets the requirements under this chapter and rules adopted by the commission.**

SECTION 6. IC 7.1-3-1.5-4.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.8. A certified trainer may train:**

- (1) alcohol servers; and**
- (2) individuals who plan to become certified trainers; on the selling, serving, and consumption of alcohol beverages.**

SECTION 7. IC 7.1-3-1.5-5, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 5. (a) The commission shall adopt rules under IC 4-22-2 to establish:**

- (1) an application form;**
- (2) standards; and**
- (3) fees;**

for certification of a program under this chapter.

(b) The commission shall adopt rules under IC 4-22-2 to otherwise carry out this chapter:

SECTION 8. IC 7.1-3-1.5-6, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6. The commission shall require the following standards for certification of a program under this chapter: (a) The commission shall:**

- (1) establish a program; and**
- (2) approve a program established by a third party that meets the requirements of this chapter;**

that is designed to educate alcohol servers and individuals who

plan to become certified trainers on the selling, serving, and consumption of alcoholic beverages.

(b) A program established or approved under subsection (a) must include the following:

- (1) Training by an instructor who:**
 - (A) has knowledge in the subject areas described in this section; and**
 - (B) is a certified trainer under this chapter.**
- (2) Information on specific subject areas as required by the commission.**
- (3) A minimum of at least two (2) hours of training to complete the program.**
- (4) Information on:**
 - (A) state laws and rules regarding the sale and service of alcoholic beverages;**
 - (B) the classification of alcohol as a depressant and the effect of alcohol on the human body, particularly on the ability to drive a motor vehicle;**
 - (C) the effects of alcohol:**
 - (i) when taken with commonly used prescription and nonprescription drugs; and**
 - (ii) on human behavior;**
 - (D) methods of:**
 - (i) identifying and refusing to serve or sell alcoholic beverages to an underage or intoxicated person; and**
 - (ii) handling situations involving an underage or intoxicated person;**
 - (E) methods for properly and effectively:**
 - (i) checking the identification of an individual;**
 - (ii) identifying an illegal identification of an individual; and**
 - (iii) handling situations involving individuals who have provided illegal identification;**
 - (F) security and law enforcement issues regarding the sale and service of alcoholic beverages; and**
 - (G) recognizing certain behavior to assess the amount of alcohol an individual:**
 - (i) has consumed; and**
 - (ii) may safely consume.**
- (5) One (1) or both of the following:**
 - (A) A written test.**
 - (B) An oral test.**

SECTION 9. IC 7.1-3-1.5-8, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 8. (a) A trainer certificate issued under this chapter expires at a time and date designated by the commission: three (3) years after the date the trainer certificate was issued.**

(b) The commission shall adopt rules to establish:

- (1) an application form; and**
- (2) fees;**

for the renewal of a certificate under this chapter:

(c) (b) The commission shall send written notice of the upcoming expiration of a certificate to each certificate holder at least sixty (60) days before the expiration of the certificate. The notice must inform the certificate holder of the need to renew and the requirement of payment of the renewal fee. If notice of expiration is not sent by the

commission; the certificate holder is not subject to a sanction for failure to renew if, once notice is received from the commission, the certificate is renewed within forty-five (45) days after the receipt of the notice; **notify a:**

- (1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and
 - (2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;
- of the renewal requirements for a trainer certificate under this chapter.**

SECTION 10. IC 7.1-3-1.5-9, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. To renew a **trainer** certificate under this chapter, the **certificate holder certified trainer** must:

- (1) file the renewal application established and provided by the commission; **and**
- (2) pay ~~the~~ a renewal fee in the amount established by the commission; **of forty-five dollars (\$45); and**
- (3) **complete a refresher course established or approved by the commission;**

not later than the expiration date of the **trainer** certificate.

SECTION 11. IC 7.1-3-1.5-12, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. A person who ~~operates a~~ **program trains:**

- (1) **alcohol servers; or**
- (2) **individuals who plan to become certified trainers;**

without a **trainer** certificate under this chapter commits a Class B infraction.

SECTION 12. IC 7.1-3-1.5-13, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) A retailer permittee or dealer permittee who operates an establishment where alcoholic beverages are served or sold must:

- (1) ensure that each alcohol server completes a program **certified under this established or approved under section 6 of this chapter not later than ninety (90) one hundred twenty (120) days after the date the alcohol server begins employment at the establishment;**
- (2) require each alcohol server to attend a refresher course that includes the dissemination of new information concerning the program subject areas described in section 6 of this chapter **as required by the commission; every three (3) years after the date the alcohol server completes a program; and**
- (3) maintain training verification records of each alcohol server.

(b) A retailer permittee, ~~or a dealer permittee, or a management representative of a retailer or dealer permittee~~ must complete a program ~~certified under established or approved under section 6 of this chapter:~~

- (1) not later than ~~ninety (90)~~ **one hundred twenty (120) days** after the date:
 - (~~1~~) **(A)** the dealer permittee is issued a permit described in section 2 of this chapter; or
 - (~~2~~) **(B)** the retailer permittee is issued a permit described in section 4 of this chapter; **and**
- (2) **every five (5) years after the date the retailer permittee, dealer permittee, or management representative of the**

retailer or dealer permittee completes a program.

(c) The commission shall notify a:

- (1) **dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and**
 - (2) **retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;**
- of the requirements under subsections (a) and (b).**

(~~c~~) (d) The commission may suspend or revoke a retailer permittee's or dealer permittee's permit or fine a retailer permittee or dealer permittee for noncompliance with this section in accordance with IC 7.1-3-23.

SECTION 13. IC 7.1-3-1.5-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14. A program established or approved under section 6 of this chapter must provide a server certificate to an individual who successfully completes the program.**

SECTION 14. IC 7.1-3-1.5-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 15. The commission may attend and observe training by a certified trainer under a program established or approved under section 6 of this chapter at any time.**

SECTION 15. IC 7.1-3-1.5-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16. The commission shall adopt rules under IC 4-22-2 to carry out this chapter.**

SECTION 16. IC 7.1-3-1.5-7 IS REPEALED [EFFECTIVE JULY 1, 2006].

SECTION 17. P.L.161-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: SECTION 4. (a) **As used in this SECTION, "alcohol server" has the meaning set forth in IC 7.1-3-1.5-1.**

(b) **As used in this SECTION, "certified trainer" has the meaning set forth in IC 7.1-3-1.5-1.3, as added by this act.**

(~~a~~) (c) As used in this SECTION, "commission" refers to the alcohol and tobacco commission established by IC 7.1-2-1-1.

(~~b~~) (d) As used in this SECTION, "dealer permittee" has the meaning set forth in IC 7.1-3-1.5-2. **as added by this act:**

(~~c~~) **As used in this SECTION, "program" has the meaning set forth in IC 7.1-3-1.5-3; as added by this act:**

(~~d~~) (e) As used in this SECTION, "retailer permittee" has the meaning set forth in IC 7.1-3-1.5-4. **as added by this act:**

(f) **As used in this SECTION, "trainer certificate" has the meaning set forth in IC 7.1-3-1.5-4.4, as added by this act.**

(~~e~~) (g) Notwithstanding IC 7.1-3-1.5-12, ~~as added by this act,~~ a person who is ~~operating a program before July 1, 2005,~~ **training alcohol servers or individuals who plan to become certified trainers before July 1, 2006,** may continue to ~~operate the program train alcohol servers or individuals who plan to become certified trainers~~ without a certificate issued under IC 7.1-3-1.5, ~~as added by this act,~~ pending the processing of an application for a **trainer** certificate under this SECTION.

(~~f~~) (h) The person described in subsection (~~e~~) (g) may submit to the commission an application for a **trainer** certificate ~~to operate a program under IC 7.1-3-1.5. as added by this act:~~ To be entitled to continue ~~operating training~~ without a **trainer** certificate under

subsection ~~(e)~~, **(g)**, the person must submit the application before March 1, ~~2006~~, **2007**.

~~(g)~~ **(i)** The person described in subsection ~~(e)~~ **(g)** shall cease ~~operating a program training alcohol servers and individuals who plan to become certified trainers if:~~

(1) the person fails to submit an application within the time allowed under subsection ~~(f)~~, **(h)**; or

(2) the commission notifies the person that the commission has rejected the application submitted by the person under this SECTION.

~~(h)~~ **(j)** Notwithstanding IC 7.1-3-1.5-13: ~~as added by this act:~~

(1) a retailer permittee or dealer permittee who is operating an establishment where alcoholic beverages are served or sold must ensure that each alcohol server completes a program ~~certified established or approved~~ under ~~IC 7.1-3-1.5~~, **IC 7.1-3-1.5-6**, as ~~added~~ **amended** by this act, not later than:

(A) January 1, ~~2008~~, **2009**; or

(B) ~~ninety (90)~~ **one hundred twenty (120)** days after the date the alcohol server begins employment at the establishment;

whichever is later; and

(2) a retailer permittee, ~~or~~ dealer permittee, **or a management representative of a retailer or dealer permittee** must complete a program ~~certified established or approved~~ under ~~IC 7.1-3-1.5~~, **IC 7.1-3-1.5-6**, as ~~added~~ **amended** by this act, not later than:

(A) January 1, ~~2008~~, **2009**; or

(B) ~~ninety (90)~~ **one hundred twenty (120)** days after the date the retailer permittee or dealer permittee is issued a retailer permit or dealer permit under IC 7.1-1.5-12;

whichever is later.

~~(i)~~ **(k)** This SECTION expires December 31, ~~2009~~, **2010**.

SECTION 18. [EFFECTIVE JULY 1, 2006] **(a) As used in this SECTION, "alcohol server" has the meaning set forth in IC 7.1-3-1.5-1.**

(b) As used in this SECTION, "certified trainer" has the meaning set forth in IC 7.1-3-1.5-1.3, as added by this act.

(c) Notwithstanding IC 7.1-3-1.5, as amended by this act, a person may be certified by the alcohol and tobacco commission to train alcohol servers and individual who plan to become certified trainers without meeting the requirements under IC 7.1-3-1.5, as amended by this act, before July 1, 2007.

(d) This SECTION expires January 1, 2008.

(Reference is to SB 27 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Homeland Security, Utilities, and Public Policy.

GARTON, Chair

Report adopted.

SENATE MOTION

Madam President: I move that Senators Harrison, Merritt, Lutz, and Craycraft be appointed to act with a like committee of the House of Representatives to wait upon the Governor and to escort him to the Chambers of the House of Representatives to deliver his message to the General Assembly on January 11, 2006.

Senator Harrison shall serve as chairman of the committee.

GARTON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Bray, Lubbers, Lanane, and Sipes be appointed to act with a like committee of the House of Representatives to wait upon the Chief Justice and to escort him to the Chambers of the House of Representatives to deliver his message to the General Assembly on January 12, 2006.

Senator Bray shall serve as chairman of the committee.

GARTON

Motion prevailed.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolutions 9, 10, 11, and 12 and the same are herewith transmitted for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 13 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

SENATE MOTION

Madam President: I move that Senator Lewis be added as second author of Senate Bill 110.

STEELE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Paul, Nugent, Weatherwax, and Lewis be added as coauthors of Senate Bill 245.

HERSHMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Bowser be added as coauthor of Senate Bill 154.

HEINOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hume be added as coauthor of Senate Bill 80.

MEEKS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hume be added as second author and Senators Kruse, Waterman, and Steele be added as coauthors of Senate Bill 51.

NUGENT

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hume be added as second author and Senators Waterman and Steele be added as coauthors of Senate Bill 54.

NUGENT

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Simpson be added as second author of Senate Bill 260.

KENLEY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Miller be added as coauthor of Senate Bill 111.

BECKER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Gard be added as second author of Senate Bill 87.

JACKMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Senate Concurrent Resolution 7.

HEINOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Broden be added as second author of Senate Bill 280.

ZAKAS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator R. Young be added as coauthor of Senate Bill 156.

LEWIS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Kruse be added as coauthor of Senate Bill 287.

SIMPSON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator R. Young be added as second sponsor of House Concurrent Resolution 10.

GARTON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator R. Young be added as second sponsor of House Concurrent Resolution 8.

GARTON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 27 and that Senator Long be substituted therefor.

GARTON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 12 and that Senator Long be substituted therefor.

GARTON

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:00 p.m., Wednesday, January 11, 2006.

LONG

Motion prevailed.

The Senate adjourned at 2:19 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate